

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION No. 7921 of 2003

Between:

V.Ramalingeswara Rao S/o Subba Rao PETITIONER

AND

1. The Secretary, R.T.A. Vijayawada, Krishna district.
2. The A.M.V.Inspector, office of the Deputy Transport
Commissioner, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondent in not allowing the petitioner's vehicle bearing No.AP 10 T 5004 to carry 42100 kgs. as per the permission granted in the R.C. is illegal, arbitrary and contrary to the Motor Vehicles Rules.

Counsel for the Petitioner : Mr.K.JANAKI RAMI REDDY

Counsel for Respondents : G.P. FOR TRANSPORT

The Court made the following :

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ORDER

Heard both sides.

The petitioner who is the owner of Vehicle bearing No. AP 10 T 5004 filed this writ petition, inter alia, seeking a Writ of Mandamus to declare the action of the respondents in not allowing his vehicle to carry 42100 kgs. as per the entry made in the R.C. Book as illegal.

The case of the petitioner is that having regard to the entries made in the Registration Certificate Book and the permit which has been granted to carry laden weight of 42100 kgs, the impugned action of the respondents in trying to restrict the weight as 35200 kgs. is illegal. It is stated that the entries made in the R.C. book remained unchallenged and therefore, the petitioner is entitled to carry the weight as mentioned in the R.C. Book.

In the counter affidavit filed by the respondents, it is stated that having regard to the notification issued by the Government of India in S.O.No.728(E) dated 18.10.1996, petitioner is not entitled to carry 42100 kgs. as against 35200 kgs.

Having regard to the submissions made by the counsel appearing for the parties and the material placed before this Court, it can be seen that the entries made in the R.C. book are in favour of the petitioner and the same have not been challenged by giving due notice and opportunity to the petitioner. Therefore, it is not open for the respondents to impose any restrictions upon the petitioner's vehicle in carrying the weight, contrary to the entries made in the R.C. book. Having regard to the notification issued by the Government of India dated 18.10.1996, I am of the view that necessarily the entries made in the R.C. Book needs to be changed after giving due notice and opportunity to the petitioner by following the procedure contemplated under the Rules.

In the circumstances, the order of the second respondent dated 31.3.2003 is set aside and the respondents are directed to proceed in accordance with law against the petitioner by changing the entries made in the R.C. book after giving due

notice and opportunity to the petitioner.

The writ petition, with the above observations and directions accordingly disposed of. No costs.

B.PRAKASH RAO, J

DA/KVR

To

1. The Secretary, R.T.A. Vijayawada, Krishna district.
2. The A.M.V.Inspector, office of the Deputy Transport Commissioner, Visakhapatnam.
3. Two CCs to the G.P. for Transport, High Court of A.P., Hyderabad.
- 4 Two CD copies.